



January 11, 2012

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## SENATE BILL No. 255

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DIGEST OF SB 255 (Updated January 10, 2012 11:20 am - DI 71)

**Citations Affected:** IC 4-1; IC 6-6; IC 10-19; IC 16-18; IC 16-41.

**Synopsis:** Various homeland security matters. Provides that local emergency planning funds withheld by the state emergency response commission may be used by the commission for purposes related to hazardous materials. Authorizes the executive director of the department of homeland security (executive director) to grant variances to rules governing the state disaster relief fund. Provides that certain powers and duties concerning radiation and radiation control are shared by the state department of health and the executive director. Makes conforming amendments.

**Effective:** July 1, 2012.

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**Wyss, Arnold**

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January 4, 2012, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.  
January 10, 2012, amended, reported favorably — Do Pass.

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SB 255—LS 6526/DI 103+



January 11, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 255

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.142-2009,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 1. (a) No individual may be compelled by any  
4 state agency, board, commission, department, bureau, or other entity of  
5 state government (referred to as "state agency" in this chapter) to  
6 provide the individual's Social Security number to the state agency  
7 against the individual's will, absent federal requirements to the  
8 contrary. However, the provisions of this chapter do not apply to the  
9 following:  
10 (1) Department of state revenue.  
11 (2) Department of workforce development.  
12 (3) The programs administered by:  
13 (A) the division of family resources;  
14 (B) the division of mental health and addiction;  
15 (C) the division of disability and rehabilitative services;  
16 (D) the division of aging; and  
17 (E) the office of Medicaid policy and planning;

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- 1 of the office of the secretary of family and social services.  
 2 (4) Auditor of state.  
 3 (5) State personnel department.  
 4 (6) Secretary of state, with respect to the registration of  
 5 broker-dealers, agents, and investment advisors.  
 6 (7) The legislative ethics commission, with respect to the  
 7 registration of lobbyists.  
 8 (8) Indiana department of administration, with respect to bidders  
 9 on contracts.  
 10 (9) Indiana department of transportation, with respect to bidders  
 11 on contracts.  
 12 (10) Indiana professional licensing agency.  
 13 (11) Department of insurance, with respect to licensing of  
 14 insurance producers.  
 15 (12) The department of child services.  
 16 (13) A pension fund administered by the board of trustees of the  
 17 public employees' retirement fund.  
 18 (14) The Indiana state teachers' retirement fund.  
 19 (15) The state police benefit system.  
 20 (16) The alcohol and tobacco commission.  
 21 (17) The state department of health **and the state department of**  
 22 **homeland security**, for purposes of licensing radiologic  
 23 technologists under ~~IC 16-41-35-29(c)~~: **IC 16-41-35-29(d)**.  
 24 (b) The bureau of motor vehicles may, notwithstanding this chapter,  
 25 require the following:  
 26 (1) That an individual include the individual's Social Security  
 27 number in an application for an official certificate of title for any  
 28 vehicle required to be titled under IC 9-17.  
 29 (2) That an individual include the individual's Social Security  
 30 number on an application for registration.  
 31 (3) That a corporation, limited liability company, firm,  
 32 partnership, or other business entity include its federal tax  
 33 identification number on an application for registration.  
 34 (c) The Indiana department of administration, the Indiana  
 35 department of transportation, and the Indiana professional licensing  
 36 agency may require an employer to provide its federal employer  
 37 identification number.  
 38 (d) The department of correction may require a committed offender  
 39 to provide the offender's Social Security number for purposes of  
 40 matching data with the Social Security Administration to determine  
 41 benefit eligibility.  
 42 (e) The Indiana gaming commission may, notwithstanding this



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chapter, require the following:

(1) That an individual include the individual's Social Security number:

(A) in any application for a riverboat owner's license, supplier's license, or occupational license; or

(B) in any document submitted to the commission in the course of an investigation necessary to ensure that gaming under IC 4-32.2, IC 4-33, and IC 4-35 is conducted with credibility and integrity.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 6-6-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The emergency response commission may withhold a local emergency planning committee's funding for failure to provide annually to the commission one (1) of the following:

- (1) The report required under section 8 of this chapter.
- (2) Proof of published legal notice required under SARA.
- (3) An updated version of the local emergency planning committee's emergency preparedness plan as required under SARA.
- (4) A copy of the current bylaws of the local emergency planning committee as required by SARA.
- (5) Evidence of an exercise of the response plan required under SARA.
- (6) A roster of the current membership of the local emergency planning committee as required under IC 13-25-1-6(b)(2).
- (7) Minutes of the local emergency planning committee meetings conducted at least two (2) times, on separate days, every six (6) months as required under IC 13-25-1-6(b)(3).

**(b) If the commission withholds funding under subsection (a), and notwithstanding section 7(a)(1) of this chapter, the commission**

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1 may use the balance of the withheld funding for purposes of  
 2 hazardous material training, mitigation, preparedness, and  
 3 recovery.

4 SECTION 3. IC 10-19-3-8 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2012]: **Sec. 8. (a) The executive director may grant a variance to**  
 7 **a rule governing the state disaster relief fund under 290 IAC 1. A**  
 8 **variance granted under this section must promote the effective and**  
 9 **expeditious distribution of relief assistance.**

10 **(b) The executive director may grant a variance to a rule under**  
 11 **subsection (a) if an applicant for financial assistance under 290**  
 12 **IAC 1-1 or 290 IAC 1-2 does the following:**

13 **(1) Submits to the executive director a written request for the**  
 14 **variance in the form and manner specified by the executive**  
 15 **director.**

16 **(2) Documents that compliance with the rule specified in the**  
 17 **application for the variance will create an undue hardship on**  
 18 **the applicant, as determined by the executive director.**

19 **(3) Documents that the applicant for the variance will be in**  
 20 **substantial compliance with the 290 IAC 1 or 290 IAC 2, as**  
 21 **applicable, after the variance is granted, as determined by the**  
 22 **executive director.**

23 **(4) Documents that noncompliance with the rule specified in**  
 24 **the application for a variance will not be adverse to public**  
 25 **health and safety or the purposes of the fund, as determined**  
 26 **by the executive director.**

27 **(c) A variance granted under subsection (b) must be conditioned**  
 28 **upon compliance with the alternative method approved by the**  
 29 **executive director. Noncompliance with the alternative method**  
 30 **constitutes the violation of a rule of the executive director and may**  
 31 **be the basis for revoking the variance.**

32 SECTION 4. IC 10-19-3-9 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 34 1, 2012]: **Sec. 9. A variance granted under section 8 of this chapter**  
 35 **expires on the earlier of the following:**

36 **(1) The date set by the executive director for the expiration of**  
 37 **the variance.**

38 **(2) The occurrence of an event set by the executive director**  
 39 **for the expiration of the variance.**

40 SECTION 5. IC 10-19-3-10 IS ADDED TO THE INDIANA CODE  
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 42 1, 2012]: **Sec. 10. (a) Beginning July 1, 2012, the executive director**

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1 or the executive director's designee shall administer and enforce  
2 the following statutes concurrently with or, as needed,  
3 independently of the state department of health:

- 4 IC 16-41-35-1
- 5 IC 16-41-35-3
- 6 IC 16-41-35-4
- 7 IC 16-41-35-5
- 8 IC 16-41-35-6
- 9 IC 16-41-35-7
- 10 IC 16-41-35-8
- 11 IC 16-41-35-9
- 12 IC 16-41-35-10
- 13 IC 16-41-35-11
- 14 IC 16-41-35-12
- 15 IC 16-41-35-13
- 16 IC 16-41-35-14
- 17 IC 16-41-35-15
- 18 IC 16-41-35-25
- 19 IC 16-41-35-26
- 20 IC 16-41-35-27
- 21 IC 16-41-35-28
- 22 IC 16-41-35-29
- 23 IC 16-41-35-32
- 24 IC 16-41-35-33
- 25 IC 16-41-35-36
- 26 IC 16-41-35-38
- 27 IC 16-41-35-40
- 28 IC 16-41-35-41
- 29 IC 16-41-35-42.

30 Actions taken by the executive director or the executive director's  
31 designee under this section are valid even if the action is not taken  
32 concurrently with the state department of health, unless otherwise  
33 contrary to law. References to "state department" in the statutes  
34 listed in this subsection shall be treated as referring to the  
35 executive director or the executive director's designee for purposes  
36 of this section.

37 (b) Rules adopted by the state department of health before July  
38 1, 2012, and codified at 410 IAC 5 shall be treated after June 30,  
39 2012, as though they had been adopted jointly by the executive  
40 director and the state department of health.

41 (c) Beginning July 1, 2012, and notwithstanding any other law,  
42 a new rule or the amendment or repeal of a rule under the

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1 following sections must be adopted jointly under IC 4-22-2-18 by  
2 the executive director and the state department of health:

- 3 (1) IC 16-41-35-26.
- 4 (2) IC 16-41-35-28.
- 5 (3) IC 16-41-35-29.
- 6 (4) IC 16-41-35-42.

7 SECTION 6. IC 16-18-2-121 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 121. (a) "Executive  
9 director", for purposes of IC 16-22, means the chief administrative  
10 officer, president, or other individual appointed under IC 16-22-3-8.

11 (b) "Executive director", for purposes of IC 16-41-35, means the  
12 executive director of the department of homeland security  
13 appointed under IC 10-19-3-1, or the executive director's designee.

14 SECTION 7. IC 16-41-35-0.5 IS ADDED TO THE INDIANA  
15 CODE AS A NEW SECTION TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2012]: Sec. 0.5. Beginning July 1, 2012, and  
17 as provided in IC 10-19-3-10, a reference to the state department  
18 in the following statutes is considered to be a joint reference to the  
19 state department and the executive director:

- 20 IC 16-41-35-1
- 21 IC 16-41-35-3
- 22 IC 16-41-35-4
- 23 IC 16-41-35-5
- 24 IC 16-41-35-6
- 25 IC 16-41-35-7
- 26 IC 16-41-35-8
- 27 IC 16-41-35-9
- 28 IC 16-41-35-10
- 29 IC 16-41-35-11
- 30 IC 16-41-35-12
- 31 IC 16-41-35-13
- 32 IC 16-41-35-14
- 33 IC 16-41-35-15
- 34 IC 16-41-35-25
- 35 IC 16-41-35-26
- 36 IC 16-41-35-27
- 37 IC 16-41-35-28
- 38 IC 16-41-35-29
- 39 IC 16-41-35-32
- 40 IC 16-41-35-33
- 41 IC 16-41-35-36
- 42 IC 16-41-35-38

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1           **IC 16-41-35-40**

2           **IC 16-41-35-41**

3           **IC 16-41-35-42.**

4           SECTION 8. IC 16-41-35-26 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) The state  
6 department shall issue general or specific licenses for at least one (1)  
7 of the following:

- 8           (1) Byproduct material.  
9           (2) Source material.  
10          (3) Special nuclear material.  
11          (4) Other radioactive materials occurring naturally or produced  
12          artificially.  
13          (5) Devices or equipment utilizing this material.

14          (b) A license shall be issued only when the state department finds  
15 that the items described under subsection (a) may produce radiation  
16 sufficient to result in hazard or injury to health, life, or property.

17          (c) ~~The state department shall adopt~~ Rules under this chapter  
18 providing for granting, suspending, revoking, or amending licenses  
19 **shall be adopted as follows:**

- 20           **(1) Before July 1, 2012, by the state department.**  
21           **(2) After June 30, 2012, by the state department and the**  
22           **executive director as provided in IC 10-19-3-10.**

23          No licensing of materials, devices, or equipment now under the  
24 jurisdiction of the United States Nuclear Regulatory Commission shall  
25 be made effective before the effective date of an agreement that  
26 discontinues the federal government's regulation of sources of radiation  
27 involved, as provided in section 27(c) of this chapter.

28          (d) A person who is not required to have a general or specific  
29 license may not produce radiation or produce, use, store, sell, or  
30 otherwise dispose of radioactive materials, radiation machines, or  
31 electronic products, unless the person registers in writing with the state  
32 department, giving the pertinent information the state department  
33 requires, in accordance with the procedures prescribed by the state  
34 department.

35          SECTION 9. IC 16-41-35-28 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 28. (a) ~~The state~~  
37 ~~department shall adopt~~ Rules **shall be adopted** under IC 4-22-2  
38 concerning the production, transportation, use, storage, sale, or other  
39 disposition of radioactive material, radiation machines, or electronic  
40 products ~~to as follows:~~

- 41           **(1) Before July 1, 2012, by the state department.**  
42           **(2) After June 30, 2012, by the state department and the**

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1 **executive director as provided in IC 10-19-3-10.**

2 **(b) Rules adopted under subsection (a) must do the following:**

- 3 (1) Prohibit and prevent unnecessary radiation.  
4 (2) Carry out this chapter.

5 ~~(b)~~ **(c)** Standards relative to unnecessary radiation included in the  
6 rules must be in general conformance with the recommendations of the  
7 National Council on Radiation Protection and Measurements and  
8 performance standards promulgated by appropriate federal agencies.

9 SECTION 10. IC 16-41-35-29, AS AMENDED BY P.L.157-2006,  
10 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2012]: Sec. 29. (a) ~~The state department shall adopt~~ Rules  
12 **shall be adopted** under IC 4-22-2 to regulate who may operate a  
13 radiation machine and what level of training and experience the  
14 operator must have **as follows:**

15 **(1) Before July 1, 2012, by the state department.**

16 **(2) After June 30, 2012, by the state department and the**  
17 **executive director as provided in IC 10-19-3-10.**

18 **(b) Rules adopted by the state department described in subsection**  
19 **(a) must exempt from testing to establish initial qualifications an**  
20 **individual who:**

- 21 (1) holds a valid certificate issued by; and  
22 (2) is currently registered with;

23 the American Registry of Radiologic Technologists.

24 ~~(b)~~ **(c)** The state department may by rule exempt an individual who:

- 25 (1) is currently licensed in another state as a radiologic  
26 technologist; or  
27 (2) performs the function of a radiologic technologist in another  
28 state that does not require the licensure of a radiologic  
29 technologist;

30 from testing to establish initial qualifications.

31 ~~(c)~~ **(d)** The state department shall issue a license to an individual  
32 meeting the requirements of the rules adopted under subsection (a) for  
33 a radiologic technologist upon the payment to the state department of  
34 a sixty dollar (\$60) fee and the cost of testing to establish initial  
35 qualifications. The license is valid for twenty-four (24) months. The  
36 state department shall establish a fee for the renewal or duplication of  
37 a license issued under this section not to exceed sixty dollars (\$60). In  
38 addition to the renewal fee, a penalty fee of sixty dollars (\$60) shall be  
39 imposed by the state department for processing an application for  
40 license renewal received after the expiration of the previous license.  
41 The state department may waive the penalty fee for a showing of good  
42 cause.



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1           ~~(d)~~ **(e)** An individual who applies for **or holds** a license issued  
2 ~~under subsection (e) or who holds a license issued under subsection (e)~~  
3 **(d)** shall provide the individual's Social Security number to the state  
4 department.

5           ~~(e)~~ **(f)** The state department shall collect and release the applicant's  
6 or licensee's Social Security number as provided in state or federal law.

7           ~~(f)~~ **(g)** Notwithstanding IC 4-1-10-3, the state department may allow  
8 access to the Social Security number of each person who is licensed  
9 under this section or has applied for a license under this section to:

10           (1) a testing service that provides the examination for licensure as  
11 a radiologic technologist to the state department; or

12           (2) an individual state regulatory board of radiologic technology  
13 or an organization composed of state regulatory boards of  
14 radiologic technology for the purpose of coordinating licensure  
15 and disciplinary activities among the individual states.

16           ~~(g)~~ **(h)** Every owner of a radiation machine, including an industrial  
17 radiation machine, shall have the machine inspected in accordance with  
18 procedures and standards established by the state department. ~~The state~~  
19 ~~department shall adopt~~ Rules **shall be adopted** under IC 4-22-2  
20 establishing the procedures and standards applicable to inspections of  
21 radiation machines **as follows:**

- 22           **(1) Before July 1, 2012, by the state department.**  
23           **(2) After June 30, 2012, by the state department and the**  
24 **executive director as provided in IC 10-19-3-10.**

25           SECTION 11. IC 16-41-35-42 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 42. (a) In addition to  
27 other penalties provided under this chapter, ~~the state department shall~~  
28 ~~adopt~~ rules **shall be adopted** under IC 4-22-2 that establish a schedule  
29 of civil penalties that may be levied upon a person for the violation of  
30 this chapter **as follows:**

- 31           **(1) Before July 1, 2012, by the state department.**  
32           **(2) After June 30, 2012, by the state department and the**  
33 **executive director as provided in IC 10-19-3-10.**

34           (b) A penalty included in the schedule of civil penalties adopted  
35 under this chapter may not exceed one thousand dollars (\$1,000) for  
36 each violation per day.

37           (c) The state department may issue an order of compliance, impose  
38 a civil penalty included in the schedule of civil penalties adopted under  
39 subsection (a), or both, against a person who:

- 40           (1) fails to comply with this section or a rule adopted under this  
41 section; or  
42           (2) interferes with or obstructs the state department or the

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1 department's designated agent in the performance of duties under  
2 this section.

3 (d) An order of compliance may be issued under IC 4-21.5-3-6,  
4 IC 4-21.5-3-8, or IC 4-21.5-4. A civil penalty may be imposed only in  
5 a proceeding under IC 4-21.5-3-8.

6 (e) A proceeding commenced to impose a civil penalty may be  
7 consolidated with any other proceeding commenced to enforce this  
8 chapter or a rule adopted under this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 255, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 41 through 42, begin a new paragraph and insert:

**"(b) If the commission withholds funding under subsection (a), and notwithstanding section 7(a)(1) of this chapter, the commission may use the balance of the withheld funding for purposes of hazardous material training, mitigation, preparedness, and recovery."**

Page 4, delete lines 1 through 3.

and when so amended that said bill do pass.

(Reference is to SB 255 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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